

EU Workers Post Brexit



The UK left the European Union on 31 January 2020. The transition period ended on 31 December 2020. The rules governing the new relationship between the EU and the UK took effect on 1 January 2021.



Set out in this quick guide are various options available to European nationals wanting to work in the UK.

EU Settlement Scheme (EUSS)

Workers may be able to continue to lawfully live and work in the UK if they:

- Worked in the UK before 31 December 2020; and
- Have applied under the EU Settlement Scheme for either 'pre-settled' or 'settled' status.
- 'Settled status': lived in the UK for continuous 5-year period (continuous residence).
- 'Pre-settled status': need to have started living in the UK by 31 December 2020, can apply to change this to settled status once you have 5 years' continuous residence.

Deadlines for applications was 30 June 2021 for most individuals.

The application is done online and it's free to apply. The application can be made [here](#). For those who wish to submit late applications, they must be able to demonstrate 'reasonable grounds' for not applying by 30 June 2021. Further guidance is available [here](#).

If workers have not lived in the UK before 31 December 2020, employers will need to obtain a sponsor licence in order to legally employ EU nationals, unless workers qualify to work in the UK in a different immigration route.

Frontier worker permit

If you work in the UK but do not live here, you can apply for a frontier worker permit. This allows you to come to the UK to work whilst primarily living elsewhere.

You must:

- Be from the EU, Switzerland, Norway, Iceland or Liechtenstein;
- Live outside the UK;
- Have begun working in the UK by 31 December 2020;
- Have worked in the UK at least once every 12 months since you started working here;

- If you have spent more than 180 days in the UK within 12 months, you need to have returned to your home country once every 6 months or twice in the 12-month period.

The permit allows you to work, rent and access benefits and services (including NHS Healthcare). There is no fee to apply for the permit, and you do not have to pay the immigration health surcharge. However, you may have to pay to submit your biometric information.

If you're a frontier worker, you'll need a permit to enter the UK to work from 1 July 2021. You can use your passport or national identity card until then. The applications are done online [here](#).

UK employers bringing an EU-based employee to the UK to work temporarily should ensure that the employee obtains a certificate from their home EU member state so that social security contributions can continue to be paid in their home member state.

Business Visitor Visa

EU, EEA and Swiss citizens are able to come to the UK without a visa if they're undertaking "permitted activities" and not working in the UK.

The business visitor visa allows individuals to enter the UK as a business visitor.

It does not allow you to work and you can only undertake "permitted activities", for example attending meetings, negotiating, and signing deals and contracts, attending trade fairs and carrying out site visits. Please note this list is not exhaustive, a full list of permitted activities can be found in the Immigration Rules [here](#).

You must show that you:

- Will leave the UK at the end of your visit;
- Will not live in the UK for extended periods through frequent or successive visits, or make the UK your main home;
- Are able to support yourself and your dependants during your trip;
- Are able to pay for your return or onward journey; and

- Have proof of any business or other activities you want to do in the UK.

Business visitor visas are granted for 6 months, 2, 5, or 10 years. However, you should not stay longer than 6 months at a time. Your travel history will be checked on entry and you may be refused entry. 'Genuineness' is key and caseworkers will assess this at the border.

Work visas

If the options above are not possible, the EU national must apply for a work visa. The visa options for both employees and business owners are provided below:

Visa options (employees)

- 1. Sponsor Licence and Skilled Worker/Global Business Mobility: Senior or Specialist Worker:** The UK entity must apply for a Sponsor Licence in order to sponsor workers from EU. Those applying for a Skilled Worker Visa need to have a UK job offer from a sponsored employer which meets the requisite skill and salary requirements. The Global Business Mobility: Senior or Specialist Worker Visa is for multinationals needing to transfer an overseas skilled worker to the UK linked entity on either a short or long-term basis.
- 2. Global Business Mobility: UK Expansion Worker:** This allows an overseas company to send an employee to work full-time in the UK to set up a branch or subsidiary of their company. The applicant must be a senior manager or specialist employee of the overseas operation.
- 3. High Potential Individual (HPI) – From May 2022:** This visa will allow individuals to come to the UK to work without a job offer, providing they have been awarded an overseas bachelor's or postgraduate degree qualification from a top global university (as published in the Global Universities List by the Home Office) within 5 years from the date of application.

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Disclaimer: This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

Visa options (business owners)

- 1. Sponsor Licence and Skilled Worker/ Global Business Mobility: Senior or Specialist Worker:** See above. Although it is important to note here that there are no restrictions on the number of shares an applicant can hold in a sponsoring company.
- 2. Global Talent Visa:** This visa is for talented and promising individuals in the fields of science, engineering, medicine, humanities, digital technology and arts and culture. You must be a leader or have the potential to be a leader in your field. This visa requires endorsement before you apply.
- 3. Innovator Visa:** This visa is for more experienced businesspeople looking to set up or run business in UK. You will need £50,000 in investment funds. This visa also requires endorsement.
- 4. Scale-up – From August 2022:** This visa is aimed at UK Scale-ups who wish to recruit talent with necessary skills to enable the business to continue growing. The UK scale-up sponsor will need to show
 - (i) annualised growth in either turnover or staffing levels of at least 20% for the previous 3-year period and
 - (ii) show they had a minimum of 10 employees at the start of the 3-year period. Applicants will initially need a job offer from the sponsor